

Form of order sought by the appellant

- Set aside the judgment of 29 April 2015 in Case F-78/12 and the General Court itself rule in the action;
- In the alternative, refer the case back to the Civil Service Tribunal;
- Order the Council to pay the costs.

Pleas in law and main arguments

In support of the appeal, the appellant relies on four pleas in law.

1. First plea in law, alleging an error of law, since the Civil Service Tribunal ('the CST') took the view that Article 45 of the Staff Regulations of Officials of the European Union did not permit account to be taken, for the purposes of entry on the list of promotable officials, the seniority acquired as a member of the temporary staff.
2. Second plea in law, alleging an error of law committed by the CST in that it held that the case was not covered by the case-law of the Court of Justice in the judgment of 8 September 2011 in *Rosado Santana* (C-177/10, ECR, EU: C:2011:557), but by that in the order of 7 March 2013 in *Rivas Montes* (C-178/12, EU:C:2013:150).
3. Third plea in law, alleging an error of law, since the CST took the view that the plea alleging an infringement of the principle of equal treatment was inadmissible since it did not state the exact names of the candidates promoted in the place of the applicant.
4. Fourth plea in law, alleging an error of law committed by the CST in that it held that the plea alleging infringement of the duty of care was inadmissible since there were discrepancies between the claim and the application.

Action brought on 10 July 2015 — Ja zum Nürburgring v Commission

(Case T-373/15)

(2015/C 337/20)

Language of the case: German

Parties

Applicant: Ja zum Nürburgring e.V. (Nürburg, Germany) (represented by: D. Frey, M. Rudolph and S. Eggerath, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul in part Commission Decision C(2014) 3634 final of 1 October 2014 on the State aid SA.31550 granted by Germany to the Nürburgring;
- order the Commission to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on 9 pleas in law.

1. First plea in law, alleging incorrect findings of the relevant facts of the case

The applicant claims that the Commission infringed Article 108 TFEU read in conjunction with Article 107 TFEU and Article 17 TEU in so far as it did not perform its duty under the law on State aid to keep State aid under review and, in its decision, incorrectly represented material aspects of the facts of the case.

2. Second plea in law, alleging a manifest error in the assessment of the confirmation of the financing

The applicant claims in this regard that the Commission committed a manifest error of assessment in finding that the buyer of the assets sold under the tender process provided a confirmation of the financing from one of the financial partners.

3. Third plea in law, alleging infringement of Article 107 TFEU and Article 108 TFEU, Article 4(4) and Article 14 of Regulation (EC) No 659/1999 ⁽¹⁾ and manifest errors of assessment

In connection with the third plea in law, the applicant claims *inter alia* that the restrictions of competition market-wide caused by the unlawful State aid were perpetuated by the sale of the assets. Furthermore, the obligation to make restitution ought to have extended on the basis of economic continuity to the buyer of the assets sold under the tender process. The applicant adds that the sale constituted new State aid in favour of the buyer.

4. Fourth plea in law, alleging infringement of Article 107 TFEU and Article 108 TFEU and manifest errors of assessment

In connection with this plea in law, the applicant claims, in essence, that the sale process was not carried out by a transparent and non-discriminatory tender process and that therefore the assets at issue were not sold at market price.

5. Fifth plea in law, alleging infringement of Article 108(2) TFEU and Article 4(4) of Regulation No 659/1999 through negative certification under the law on State aid

In connection with this plea in law, the applicant claims that the Commission infringed Article 108(2) TFEU and Article 4(4) of Regulation No 659/1999 in so far as it did not classify the assets sold within the course of the tender process as new State aid and did not initiate the formal examination procedure. The applicant adds that the Commission cannot have failed to have had doubts as to the compatibility of that State aid with the internal market.

6. Sixth plea in law, alleging failure to state reasons

The applicant submits that the Commission infringed its obligation to state reasons pursuant to Article 296(2) TFEU and Article 41(2)(c) of the Charter of Fundamental Rights of the European Union in so far as the reasons are either not given or not adequately given for the principal considerations on which the contested decision is based.

7. Seventh plea in law, alleging infringement of the applicant's procedural rights

In connection with this plea in law, the applicant claims that the Commission infringed its procedural rights by not considering its submissions.

8. Eighth plea in law, alleging that the decision that the sale of assets did not constitute new State aid infringed the applicant's procedural rights

In connection with this plea in law, the applicant claims that the Commission infringed its procedural rights and, in particular, essential formal requirements in so far as, despite the applicant's formal complaint, it decided that the sale of the assets following the tender process to the buyer was not to be classified as State aid. By its decision, the Commission implicitly declined to initiate the formal investigation procedure.

9. Ninth plea in law, alleging infringement of the right to good administration

Lastly, the applicant claims that the Commission neither investigated all of the relevant aspects independently nor took the aspects of the case provided by the applicants into consideration in an appropriate manner.

⁽¹⁾ Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ 1999 L 83, p. 1).

Action brought on 10 July 2015 — Germanwings v Commission

(Case T-375/15)

(2015/C 337/21)

Language of the case: German

Parties

Applicant: Germanwings GmbH (Cologne, Germany) (represented by: A. Martin-Ehlers, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the Commission's decision of 1 October 2014 in Case SA.27339 (2012/C) (ex 2011/NN) — Zweibrücken airport and airlines that use that airport — namely
 - Article 1(2) in so far as it refers to the contract with Germanwings GmbH of 2006 and;
 - Article 3(3)(e);
- annul the Commission's decision of 11 May 2015, GESTDEM 2015/1288;
- order the defendant to pay the costs of the proceedings.